IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICIA EVANS	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 03-4975
FEDERAL RESERVE BANK OF PHILADELPHIA	:	

MEMORANDUM

Padova, J. **April 4, 2005**

Presently before the Court in this Title VII employment retaliation action is Plaintiff Patricia Evans' Motion for a New Trial and to Set Aside Jury Verdict.[1] For the reasons that follow, said Motion is denied in its entirety.

I. BACKGROUND

Plaintiff Patricia Evans was employed as a Human Resources Recruiter at the Federal Reserve Bank of Philadelphia (the "Bank") from on or about July 5, 2000 to on or about November 7, 2001. In late 2001, while Plaintiff was still employed by the Bank, Plaintiff recommended three men from Africa who had been her parking lot attendants for employment with the Bank. Although Plaintiff believed that these three individuals were qualified for the jobs for which they had applied, some of Plaintiff's co-workers in hiring positions declined to extend them job offers. At the

[1] The Court notes that Plaintiff has also submitted a *pro se* letter received by the Court on February 16, 2005, requesting that the Court "grant a New Trial and Set Aside the Verdict of the Jury." (Ltr. by Patricia Evans, received on 02/16/2005 at 1.) As Plaintiff is represented by counsel, the Court will disregard said letter.

same time, Plaintiff's co-workers began to criticize her recruiting practices, and Plaintiff brought the increasingly hostile work environment to her supervisors' attention. On November 7, 2001, Plaintiff was discharged from her employment with the Bank. The Bank stated that the reasons for Plaintiff's termination were that she had exercised poor judgment in the performance of her job duties and that she had violated the Bank's employee policies against holding and campaigning for political office. Plaintiff alleges that, in fact, she was terminated in retaliation for her opposition to the Bank's unlawful employment policies, as evidenced by her fellow employees' reluctance to hire the three African job applicants.

After her discharge, Plaintiff brought the instant action. Count I of Plaintiff's Complaint asserted a claim for retaliation in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e *et seq.,* against the Bank. Count II of the Complaint asserted a claim for retaliation in violation of the Pennsylvania Human Relations Act ("PHRA") against the Bank. Count III of the Complaint asserted a claim for aiding and abetting Retaliation in violation of the PHRA against individual Bank employees. Defendants filed a joint Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief could be granted. The Court granted in part and denied in part Defendants' Motion, and dismissed Counts II

and III of the Complaint. Accordingly, the sole issue that was tried was Plaintiff's claim for retaliation in violation of Title VII. After a five-day trial, the jury returned a verdict in favor of the Bank and against Plaintiff. In the instant Motion, Plaintiff argues that the evidence was legally insufficient to support the jury's finding against her, and that the Court erred in allowing certain hearsay testimony and giving certain jury instructions.[2]

II. LEGAL STANDARD

Plaintiff moves pursuant to Rule 59 for a new trial. Rule 59 provides, in relevant part, as follows:

> A new trial may be granted to all or any of the parties and on all or part of the issues (1) in an action in which there has been a trial by jury, for any of the reasons for which new trials have heretofore been granted in actions at law in the courts of the United States.

Fed. R. Civ. P. 59(a). Under the law of this circuit, "[a] new trial is appropriate only when the verdict is contrary to the great weight of the evidence or errors at trial produce a result inconsistent with substantial justice." Sandrow v. United States, 832 F. Supp. 918, 918 (E.D. Pa. 1993) (citing Roebuck v. Drexel Univ., 852 F.2d 715, 735-36 (3d Cir. 1988)). In reviewing a motion for a new trial, the court must "view all the evidence and

[2] Plaintiff does not cite to the trial record in support of her general allegations.

inferences reasonably drawn therefrom in the light most favorable to the party with the verdict." Marino v. Ballestas, 749 F.2d 162, 167 (3d Cir. 1984) (citation omitted).

III. DISCUSSION

Pursuant to Title VII, it is unlawful "for an employer to discriminate against any of his employees . . . because [the employee] has opposed any practice made an unlawful employment practice by [Title VII]." 42 U.S.C. § 2000e-3(a). Title VII further provides that "it shall be an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." Id. § 2000e-2. To prevail on an unlawful retaliation claim under Title VII, "a plaintiff must show: (1) that she engaged in a protected activity; (2) that she was discharged subsequent to or contemporaneously with such activity; and (3) that a causal link exists between the protected activity and the discharge." Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1085 (3d Cir. 1996) (citing Jalil v. Avdel Corp., 973 F.2d 701, 708 (3d Cir. 1989)).

An employee engages in a protected activity when she makes a complaint against an employer "under a good faith, reasonable belief that a violation existed." Aman, 85 F.3d at 1085. The employer is prohibited from retaliating even if the employee's

beliefs were mistaken, so long as the allegations of discrimination have an objectively reasonable basis in fact. See Clark County Sch. Dist. v. Breeden, 532 U.S. 268, 271 (2001). Here, after a five-day trial, the jury returned a verdict in favor of the Bank after determining that Plaintiff had not met her burden of proving by a preponderance of the evidence that she had engaged in a protected activity while employed at the Reserve Bank.

A. Sufficiency of the Evidence Supporting the Verdict

Plaintiff argues that the Court should grant her Motion for a New Trial because it was clearly established at trial that Plaintiff had engaged in a protected activity, and the jury's verdict, therefore, was against the weight of the evidence. Plaintiff contends that the evidence adduced at trial showed that Plaintiff in good faith believed her fellow employees at the Bank had discriminated against the three African job applicants on the basis of their national origin and linguistics. Plaintiff further argues that the evidence introduced at trial established that Plaintiff reported these incidents to her manager MaryAnn Hood, who was the Bank's Assistant Vice President of Human Resources. In addition, Plaintiff argues that Defendant did not vigorously defend her claim that she had engaged in a protected activity, and that the fact that the jury returned its verdict after deliberating for only slightly over an hour gives rise to serious doubt about whether the jury had conducted any meaningful deliberations at all.

When the basis of a motion for a new trial is that the verdict is against the weight of the evidence, the trial court has limited discretion in ruling on the motion. Greenleaf v. Garlock, Inc., 174 F.3d 352, 366 (3d Cir. 1999). In that instance, the motion should only be granted "when the record shows that the jury's verdict resulted in a miscarriage of justice or where the verdict, on the record, cries out to be overturned or shocks [the court's] conscience." Id. at 366 (quoting Williamson v. Consol. Rail Corp., 926 F.2d 1344, 1353 (3d Cir. 1991)). Where, as here, "the subject matter of the litigation is simple and within a layman's understanding, the district court is given less freedom to scrutinize the jury's verdict than in a case that deals with complex factual determinations." Williamson, 926 F.2d at 1353.

The evidence at trial included testimony by MaryAnn Hood that Plaintiff had never made a complaint of discriminatory hiring practices to her. In addition, documentary evidence showed that, while Plaintiff alleged that a Bank employee had refused to hire an African candidate on the basis of linguistics, that employee had in fact merely stated that the need during the interview to "rephrase questions several times . . . led to a serious concern about how well the candidate would succeed in [this department's] environment, which relies heavily on strong communication skills based on complex terminology." (Def.'s Ex. 16.)

The Court finds that there was sufficient evidence for the

jury to conclude that Plaintiff had not engaged in a protected activity because Plaintiff had not made a complaint to the Bank's management regarding what she perceived to have been discriminatory practices. Based on MaryAnn Hood's testimony, the jury could have found that Plaintiff had never complained to the Bank's management about the Bank's hiring practices, but rather only about her co-workers' responses to Plaintiff's criticism. Moreover, the documentary evidence could have led the jury to conclude that, even if Plaintiff had made such a complaint, Plaintiff had not reasonably or in good faith believed that the Bank had engaged in discriminatory practices. Finally, the Court notes that brevity of jury deliberations does not by itself justify a new trial. See Paoletto v. Beach Aircraft Corp., 464 F.2d 976, 983 (3d Cir. 1972). Viewing the evidence and the inferences drawn therefrom in the light most favorable to the Bank, the Court concludes that the jury's finding that Plaintiff had not engaged in a protected activity within the meaning of Title VII did not result in a miscarriage of justice, and does not cry out to be overturned or shock the Court's conscience. See Greenleaf, 174 F.3d at 366. Accordingly, Plaintiff's Motion is denied in this respect.

B. Alleged Trial Errors

Plaintiff further argues that the Court should grant her Motion for a New Trial because the Court erred in (1) allowing hearsay testimony about statements made by Plaintiff's co-workers

and individuals not employed by the Bank, and (2) repeating a jury charge on causation and instructing the jury on bad business decision or mistake. When a motion for a new trial is based on an alleged error involving a matter within the sound discretion of the trial court, such as the court's evidentiary rulings or points of charge to the jury, the trial court has wide discretion in ruling on the motion. Griffiths v. CIGNA Corp., 857 F. Supp. 399, 410 (E.D. Pa. 1994). In evaluating a motion for a new trial on the basis of trial error, "the Court must first determine whether an error was made in the course of trial, and then must determine whether that error was so prejudicial that refusal to grant a new trial would be inconsistent with substantial justice." Lyles v. Allstate Ins. Co., Civ. A. No. 00-628, 2000 WL 1868389, at *1 (E.D. Pa. Dec. 22, 2000) (internal quotation omitted).

1. Admission of hearsay testimony

Plaintiff contends that she was prejudiced by the admission into evidence of testimony by Edward Mahon, Eric Jefferson, and MaryAnn Hood regarding out of court statements made by Edward Jacobs, Peter Roberts, Jerry Katz and Dorothy Croxton, all of whom are employees of the Bank, regarding complaints about Plaintiff's job performance and the decision to terminate Plaintiff's employment. Plaintiff further alleges that she was prejudiced by the admission into evidence of out of court statements made by non-party witnesses, specifically Stanley Lindner, Dr. Ramsell, and Ms.

Brierfield, regarding Plaintiff's political activities while she was employed at the Bank. Plaintiff argues that these statements were being offered for the truth of the matter asserted and, therefore, incorrectly admitted into evidence.

Under the Federal Rules of Evidence, hearsay is "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Fed. R. Evid. 801(c). Here, the statements Plaintiff refers to were not admitted for their truth, but rather to show the basis for the Bank's belief that Plaintiff was not performing her job duties satisfactorily, and that she was violating the Bank's employee policies by holding and campaigning for political office. Accordingly, the statements admitted into evidence were not hearsay within the meaning of Fed. R. Evid. 801(c). Moreover, to the extent that the jury might have misconstrued the purpose of these statements, the Court gave limiting instructions at trial which clarified that the statements were not admitted for the truth of the matter asserted, but rather merely to show what information the Bank acted on when it discharged Plaintiff. The Court finds that no error was made in the course of trial by admitting certain statements made by Plaintiff's co-workers, as well as individuals not employed by the Bank, regarding Plaintiff's job performance and political activities. Accordingly, Plaintiff's Motion is denied in this respect.

2. Jury charge

Plaintiff further argues that she was prejudiced by the Court's instructions to the jury because the Court erroneously repeated Defendant's jury charge on the issue of causation and gave the jury instructions on bad business decisions or mistake. A trial court has broad discretion in ruling on points for charge. United States v. Am. Radiator & Standard Sanitary Corp., 433 F.2d 174, 199 (3d Cir. 1970). No error is present where "the challenged instructions accurately state the law relating to the particular issue under scrutiny." Drames v. Sun River Inv., S.A., 820 F. Supp. 209, 215 (E.D. Pa. 1993). "Error in jury instructions warrants a new trial only if the court is persuaded, based on the record as a whole, that the error was prejudicial; if the charging error would not have changed the trial result, a new trial cannot be granted." Delgrande v. Temple Univ., No. Civ. A. 96-3878, 1997 WL 560176, at *4 (E.D. Pa. Aug. 7, 1997).

Plaintiff does not contend that the charge on causation, which the Court repeated upon Motion by the Bank, was incorrect. Rather, Plaintiff argues only that there was no need to repeat the instruction as the Court had already explained causation during the initial charge, and the repetition unnecessarily and deceptively emphasized causation over the other elements of Plaintiff's claim. Plaintiff, however, cites no authority for the proposition that the repetition of a correct statement of the law constitutes an error,

much less that such error is prejudicial to a party so as to require a new trial. See Skaggs v. Hartford Fin. Group, Inc., No. Civ. A. 1999CV3306, 2001 WL 1665334, at *12 (E.D. Pa. Sept. 28, 2001). Nonetheless, reading the jury instructions as a whole, the Court's charge did not unduly emphasize the element of causation. Moreover, upon completion of the jury instructions, the Court admitted a copy of the charge into evidence and provided it to the jury during its deliberations. This copy did not include the Court's repetition of the charge on causation. As no error is present where the challenged instructions accurately state the law relating to the particular issue under scrutiny, the Court finds that its repetition of the jury charge on causation was neither incorrect nor prejudicial. See Drames, 820 F. Supp. at 215. Accordingly, Plaintiff's Motion is denied in this respect.

Plaintiff also argues that the Court incorrectly charged the jury on the element of retaliation because it instructed the jury that the question before it was not whether Defendant had made the best, or even sound, business decisions, but rather whether the reason for the Bank's decision was retaliation. Plaintiff does not argue that this instruction was incorrect, but contends that the instruction prejudiced Plaintiff because it created an impression that the Bank's decision to terminate Plaintiff could have been unsound, incompetent, or unwise, and whether Defendant made a sound business decision was not relevant to Plaintiff's claim. The Court

properly charged the jury that in cases brought pursuant to Title VII, "the question is not whether the employer made the best, or even a sound, business decision; it is whether the real reason is [retaliation]." Keller v. Orix Credit Alliance, Inc., 130 F.3d 1101, 1109 (3d Cir. 1997) (quoting Carson v. Bethlehem Steel Corp., 82 F.3d 157, 159 (7th Cir. 1995)). The Court went on to charge the jury that it was required to return a verdict for Plaintiff if it found that retaliation was the actual cause for the Bank's actions. The Court, therefore, instructed the jury precisely as Plaintiff now contends it should have, namely that the relevant question before it was not whether the Bank had made a sound business decision, but rather whether the Bank's reason for terminating Plaintiff was retaliation. Moreover, the Court notes that Plaintiff cites no authority for the proposition that the Court's charge on retaliation was prejudicial. As no error is present where the challenged instructions accurately state the law relating to the particular issue under scrutiny, the Court finds that its jury instruction on retaliation was neither incorrect nor prejudicial. See Drames, 820 F. Supp. at 215. Accordingly, Plaintiff's Motion is denied in this respect.

IV. CONCLUSION

Plaintiff has failed to persuade the Court that, viewing the evidence in the light most favorable to Defendant, there was insufficient evidence from which the jury could reasonably find

that Plaintiff had not engaged in a protected activity, or that permitting the verdict to stand would result in a miscarriage of justice. Moreover, Plaintiff has failed to establish that the Court made trial errors which were prejudicial to Plaintiff. Plaintiff's Motion for a New Trial is, therefore, denied.

An appropriate Order follows.

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O R D E R

AND NOW, this 4th day of April, 2005, upon consideration of Plaintiff Patricia Evans' Motion for a New Trial and to Set Aside Jury Verdict (Doc. No. 59) and all briefing in response thereto, **IT IS HEREBY ORDERED** that said Motion is **DENIED**.

BY THE COURT:

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John R. Padova, J.